

ASSEMBLY BILL

No. 451

Introduced by Assembly Member Bonilla

February 23, 2015

An act to amend Section 21107.8 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 451, as introduced, Bonilla. Private parking facilities.

Existing law authorizes a city or county, by ordinance or resolution, to find and declare that there are privately owned and maintained offstreet parking facilities within the city or county that are generally held open for use of the public for purposes of vehicular parking and requires, upon enactment of the ordinance or resolution, that specified traffic laws apply, including those related to basic speed law, reckless driving, and speed contests and exhibitions of speed, except as specified.

This bill would authorize a city or county to include in that ordinance or resolution authorization for the operator of privately owned and maintained offstreet parking facility to regulate unauthorized parking in that facility. The bill would, if a city or county has exercised that authority and unauthorized parking is regulated in a privately owned and maintained offstreet parking facility, require the owner or operator of the facility to include in a parking fee invoice instructions that describe the manner in which to contest the parking fee invoice and prohibit the owner or operator from filing with, or transmitting to, the Department of Motor Vehicles a parking fee invoice, as specified. The bill would also require a city or county that authorizes private parking regulation to include, in its ordinance or resolution, specified provisions, including those related to dispute resolution.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21107.8 of the Vehicle Code is amended
2 to read:

3 21107.8. (a) (1) Any city or county may, by ordinance or
4 resolution, find and declare that there are privately owned and
5 maintained offstreet parking facilities as described in the ordinance
6 or resolution within the city or county that are generally held open
7 for use of the public for purposes of vehicular parking. Upon
8 enactment by a city or county of the ordinance or resolution,
9 Sections 22350, 23103, and 23109 and the provisions of Division
10 16.5 (commencing with Section 38000) shall apply to privately
11 owned and maintained offstreet parking facilities, except as
12 provided in subdivision (b).

13 (2) (A) *If a city or county enacts an ordinance or resolution*
14 *authorized by paragraph (1), a city or county may include in that*
15 *ordinance or resolution authorization for the operator of a*
16 *privately owned and maintained offstreet parking facility to*
17 *regulate unauthorized parking in that facility.*

18 (B) (i) *If a city or county has exercised its authority pursuant*
19 *to subparagraph (A) and unauthorized parking is regulated in a*
20 *privately owned and maintained offstreet parking facility, the*
21 *owner or operator of that facility shall include in a parking fee*
22 *invoice instructions that describe the manner in which to contest*
23 *the parking fee invoice.*

24 (ii) *If a city or county has exercised its authority pursuant to*
25 *subparagraph (A) and unauthorized parking is regulated in a*
26 *privately owned and maintained offstreet parking facility, the*
27 *owner or operator of that facility shall not file with, or transmit*
28 *to, the Department of Motor Vehicles a parking fee invoice for the*
29 *purpose of having the Department of Motor Vehicles attempt to*
30 *collect unpaid parking fees by refusing to issue or renew a license*
31 *pursuant to Section 12808.1 or refusing to renew the registration*
32 *of a vehicle pursuant to Section 4760.*

33 (b) Notwithstanding the provisions of subdivision (a), no
34 ordinance or resolution enacted thereunder shall apply to any
35 offstreet parking facility described therein unless the owner or

operator has caused to be posted in a conspicuous place at each entrance to that offstreet parking facility a notice not less than 17 by 22 inches in size with lettering not less than one inch in height, to the effect that the offstreet parking facility is subject to public ~~traffic regulations and control.~~ *moving vehicle laws.*

(c) No ordinance or resolution shall be enacted under subdivision (a) without a public hearing thereon and 10 days prior written notice to the owner and operator of the privately owned and maintained offstreet parking facility involved.

(d) Section 22507.8 may be enforced without enactment of an ordinance or resolution as required under subdivision (a) or the posting of a notice at each entrance to the offstreet parking facility as required under subdivision (b).

(e) The department shall not be required to provide patrol or enforce any provisions of this code on any privately owned and maintained offstreet parking facility subject to the provisions of this code under this section except those provisions applicable to private property other than by action under this section.

(f) *A city or county that authorizes private parking regulation pursuant to this section shall, in its ordinance or resolution, include provisions that include all of the following:*

(1) Procedures of dispute resolution in accordance with those procedures set forth in Section 40215, which shall include all of the following:

(A) A written and publicly available dispute resolution policy that includes specified time periods for notifications, review, and appeal.

(B) An administrative hearing process that includes all of the following:

(i) Options for a hearing in person or by mail.

(ii) Administrative review.

(iii) A hearing by a third-party examiner who has been adequately trained and who provides an independent, objective, fair and impartial review.

(iv) Personal delivery or delivery by first-class mail of an examiner's decision.

(v) Authority for the examiner to allow payment of the parking charge in installments for persons showing evidence of inability to pay the parking charge in full.

1 (2) A prohibition against incentives based on the number of
2 invoices issued or the number or percent of disputed invoices
3 adjudicated that uphold parking charges.

4 (3) A cap on a parking invoice fee that is commensurate with
5 the most nearly equivalent municipal parking fine.

6 (4) Measures to prevent a private parking regulator from
7 representing itself as a government enforcement agency, including
8 a prohibition against use of terminology in ordinances or
9 resolutions, and in parking fee invoices, which are restricted to
10 governmental law enforcement, and a requirement for a
11 conspicuous statement on parking fee invoices to the effect that
12 “This parking charge notice is not issued by the [local
13 government].”